Court No.3

Criminal Revision No. 15 of 2003

Om Prakash …Revisionist.

Vs.

State of Uttaranchal and others …Respondents.

Hon'ble Irshad Hussain, J.

None appear for the revisionist. Heard Sri K.S. Verma learned counsel for the respondents private party.

Proceedings under section 145 of the Code of Criminal Procedure (hereinafter referred as the 'Code') were initiated by the Sub Divisional Magistrate. Aggrieved, the present private party respondents filed a revision before the Sessions Judge which was decided on merit and the proceedings drawn under section 145(1) of the Code by the S.D.M. were quashed. The ground for the same was that the property was joint and partition suit filed under section 176 of the U.P. Act No. 1 of 1951 was already pending disposal in a competent revenue court. Now the partition suit has been decided on 29.7.2003, copy of the judgment is Annexure-1 to the supplementary affidavit. Further the village is under the consolidation proceedings and the gazette notification Annexure-2 has also been filed with the supplementary affidavit. The village is mentioned at serial No. 61 namely Mubarikpur Alipur in the said notification and the property in disputes situate there. Considering this the proceedings under section 145(1) of the Code were not legally justified and the learned Sessions Judge made no error in having these proceedings quashed under the revisional jurisdiction.

In view of above there being no merit in the present petition the same is hereby dismissed. The stay order dated 10-3-2003 is vacated.

(Irshad Hussain, J.)

Dated:15-9-2003

ISB